

MICHIGAN STRATEGIC FUND ACT (EXCERPT)
Act 270 of 1984

125.2088k Strategic economic investment and commercialization board; creation; powers, duties, and authority; award of grants and loans; duties of fund; standards for expenditures of money; prohibited expenditures; reasons for selection of grant recipient; resolution establishing or changing program; notice.

Sec. 88k. (1) The strategic economic investment and commercialization board is created within the fund. The commercialization board shall exercise its powers, duties, and decision-making authority under this chapter independently of the fund, the fund board, and the department of treasury.

(2) The commercialization board shall award grants and loans from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.256, and the investment fund only for basic research, applied research, university technology transfer, and commercialization of products, processes, and services to encourage the development of competitive edge technologies to create jobs in this state.

(3) Subject to subsection (2), the fund as determined by the commercialization board shall do all of the following:

(a) Establish a competitive process to award grants and make loans for competitive edge technologies. The competitive process shall include, but is not limited to, the following:

(i) A provision that the applications must be peer-reviewed by independent peer review experts based on the scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding of the application. Scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding shall be given equal weight in the review and scoring process.

(ii) A preference for proposals that can contribute to the development of economic diversification or the creation of employment opportunities in this state.

(iii) A provision that out-of-state business must have a significant existing or proposed business presence in this state.

(iv) A provision that the program will utilize contracts with measurable milestones, clear objectives, provisions to revoke awards for breach of contract, and repayment provisions for loans given to qualified businesses that leave Michigan within 3 years of the execution of the contract or otherwise breach the terms of the contract.

(v) A provision that the applicant leverage other resources as a condition of the grant or loan. If an applicant is seeking a grant or a loan under this chapter to match federal funds for small business innovation research or small business technology transfer programs, the grant or loan under this chapter shall not exceed 25% of the federal funds and must leverage third-party commercialization funding at both the phase I and phase II levels.

(vi) Limit overhead rates for recipients of grants and loans to reflect actual overhead but not greater than 15% of the grant or loan.

(vii) Except as provided in subparagraph (v), a provision that grants can only be awarded to Michigan institutions of higher education, Michigan nonprofit research institutions, and Michigan nonprofit corporations.

(viii) A preference for collaborations between institutions of higher education, Michigan nonprofit research institutions, Michigan nonprofit corporations, and qualified businesses.

(ix) A provision authorizing the award of grants to institutions of higher education to serve as match to promote or secure the award and receipt of competitively awarded federal research grants related to competitive edge technologies. A matching grant shall not exceed 10% of the amount of the competitively awarded federal research grants received.

(x) A provision encouraging the redevelopment of existing scientific wet lab space for the commercialization of life science technology.

(xi) A preference for proposals that meet 1 or more of the following:

(A) Forecast revenues within 2 years.

(B) Have outside investments from investors with experience and management teams with experience in the industry targeted by the proposal.

(C) Have outside directors with expertise in the industry targeted by the proposal.

(b) The fund shall contract with independent peer review experts selected by the commercialization board to assist the commercialization board with its responsibilities under this chapter.

(4) The commercialization board shall establish standards to ensure that money expended under this chapter will result in economic benefit to this state and ensure that a major share of the business activity resulting from the expenditures occurs in this state.

(5) The commercialization board shall ensure that a recipient of money expended under this chapter agrees as a condition of receiving the money not to use the money for any of the following:

(a) The development of a stadium or arena for use by a professional sports team.

(b) The development of a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or property associated or affiliated with the operation of either type of casino described in this subdivision, including, but not limited to, a parking lot, hotel, motel, or retail store.

(6) The commercialization board shall establish requirements to ensure that money expended under this section shall not be used for any of the following:

(a) Grants or loans to a person who has been convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. As used in this subdivision, if a person is a business entity, then person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(b) Grants or loans to a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. As used in this subdivision, if a person is a business entity, then person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(c) Grants or loans to induce a qualified business or a small business to leave this state.

(d) Grants or loans that would contribute to the violation of internationally recognized workers rights, as defined in section 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a country other than the United States, including any designated zone or area in that country.

(e) Grants or loans to a corporation or an affiliate of the corporation incorporated in a tax haven country after September 11, 2001, but with the United States as the principal market for the public trading of the corporation's stock. As used in this section, "tax haven country" includes a country with tax laws that facilitate avoidance by a corporation or an affiliate of the corporation of United States tax obligations, including Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein, the Principality of Monaco, and the Republic of the Seychelles.

(7) When the commercialization board approves a grant or a loan under this chapter, the commercialization board shall state the specific objective reasons the applicant was selected over other applicants for a grant or loan under this chapter.

(8) After March 31, 2006, before adopting a resolution that establishes or substantially changes a program operated by the commercialization board, including any fees, charges, or penalties attached to that program, the commercialization board shall give notice of the proposed resolution to the governor, to the secretary of the senate, to the clerk of the house of representatives, to members of the senate and house of representatives standing committees on appropriations, and to each person who requested from the fund in writing or electronically to be notified regarding proposed resolutions. The notice and proposed resolution and all attachments shall be published on the fund's internet website. The commercialization board shall hold a public hearing not sooner than 14 days and not longer than 30 days from the date notice of a proposed resolution is given and offer a person an opportunity to present data, views, questions, and arguments. Commercialization board members or 1 or more persons designated by the commercialization board who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The commercialization board may act on the proposed resolution no sooner than 14 days after the public hearing. The commercialization board shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the governor, to the secretary of the senate, to the clerk of the house of representatives, and to members of the senate and house of representatives standing committees on appropriations and shall be published on the fund's internet website.

(9) The notice described in subsection (8) shall include all of the following:

(a) A copy of the proposed resolution and all attachments.

(b) A statement that the addressee may express any data, views, or arguments regarding the proposed resolution.

(c) The address to which written comments may be sent and the date by which comments must be mailed or electronically transmitted, which date shall not be before the date of the public hearing.

(d) The date, time, and place of the public hearing.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund